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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,322	03/16/2004	Billy H. Brenton	BRER.01US01	3739
,7590 07/13/2005 Cochran Freund & Young LLC Suite 230 3555 Stanford Road Fort Collins, CO 80525			EXAMINER PAYER, HWEI SIU CHOU	
			ART UNIT 3724	PAPER NUMBER

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/802,322	Applicant(s) BRENTON, BILLY H.	
	Examiner Hwei-Siu C. Payer	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☒ This action is FINAL.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-14,16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,8-14,16 and 17 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## Detailed Action

The amendment filed on 6-24-2005 has been entered.

### Claims Rejection - 35 U.S.C. 102(b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 8, 10, 11, 13 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Nolen (U.S. Patent No. 590,330).

Nolen shows the claimed invention. Further, Nolen's pin (a3) is considered "flexible" since virtually anything will flex if enough pressure is applied to it.

### Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2, 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolen (U.S. Patent No. 254,341).

Nolen shows the claimed invention except it is silent about the material the pin (a3) is made of, and the location of the hole (i.e. the hole through which the pin (a3) extends) with respect to the open portion of the thumb ringlet (a4).

To select a well known material such as plastic for Nolen's pin (a3) would have been obvious to one having ordinary skill in the art, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to rearrange Nolen's open portion so that it is disposed approximate opposite to the hole in the thumb ringlet (a4), since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70 (CCPA 1950).

3. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolen (U.S. Patent No. 590,330) in view of Mock (U.S. Patent No. 6,131,291).

Nolen shows the claimed invention except it lacks means for adjusting the force between opposing cutting portions (A,B) of the scissors.

Mock shows a pair of shears comprising means (20,50) for adjusting the force of the shear blades (see column 3, line 66 to column 4, line 1).

It would have been obvious to one skilled in the art to further modify Nolen by providing the scissors with force adjusting means to facilitate adjusting the ride of the blades as taught by Mock.

4. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolen (U.S. Patent No. 590,330) in view of Brenton (U.S. Patent No. 5,469,624).

Nolen shows the claimed invention except it lacks a finger stabilizer.

Brenton shows a pair of scissors comprising a finger stabilizer disposed in the vicinity of a finger ringlet (26, see Fig.1a).

It would have been obvious to one skilled in the art to modify Nolen by providing the finger ringlet (B3) with a finger stabilizer for supporting a user's finger when in use as taught by Brenton.

#### **Indication of Allowable Subject Matter**

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Prior Art Citations**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weber, Ericson and Bain are cited as art of interest.

## Remarks

Applicant's arguments with respect to claims 1-4, 6, 8-14 and 16-17 have been considered but are moot in view of the new ground(s) of rejection.

## Action Made Final

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

## Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-

4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for official communications and 571-273-4511 for proposed amendments.

H Payer  
July 11, 2005

*H Payer*  
Hwai-Siu Payer  
Primary Examiner